

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's own motion into the programs, practices and policies related to implementation of the California Environmental Quality Act as it applies to jurisdictional telecommunications utilities.

Rulemaking 00-02-003

**ADMINISTRATIVE LAW JUDGE'S RULING
REQUESTING COMMENT ON PROCEEDING STATUS**

On February 3, 2000, the Commission opened the above-captioned rulemaking to determine whether and how to revise the Commission's practices and policies for implementing the California Environmental Quality Act (CEQA) as it pertains to telecommunications carriers. Comments on the initial rulemaking were filed on March 15, 2000. Pursuant to an Administrative Law Judge's (ALJ) ruling, parties filed reply comments and comments on an additional set of questions on May 22, 2000. Further reply comments were received on June 5, 2000 and July 28, 2000.

Although all of the filings received in 2000 were reviewed extensively by the ALJ and Commission staff, there have been no further submittals in this rulemaking since that time. Essentially, this rulemaking has been dormant since 2001. With the recent departure from the Commission of former Assigned

Commissioner Loretta Lynch, the case has been reassigned to Commissioner Geoffrey Brown, who has expressed an interest in reviving the proceeding.

Since this proceeding was initiated, the telecommunications industry has witnessed major changes including the development of new technologies and shifts in how customers use various technologies. In addition, carriers have evolved, by consolidation, entry and exit from the market, business plan shifts, and regulatory changes. Interplay between federal and state regulatory bodies has raised issues of relative responsibility for oversight and affected the availability and price of leased system components with an eye to expansion of facilities-based competition and investment.

During this same time, the Commission has addressed requests from numerous carriers desiring to engage to various degrees in facilities construction. The Commission has conducted environmental reviews of carriers' construction projects on a carrier by carrier basis, endeavoring to balance the need to comply with the state's environmental review requirements and business needs in ever changing market conditions. Recently, individual carriers have petitioned for individual relief from the Commission's current environmental review practices, claiming individual review results in disparate treatment of carriers and corresponding competitive disadvantages. Meanwhile, the convergence of technology has allowed carriers to provide telecommunications over varying facilities, with varying regulatory treatment from this Commission. Thus, despite the passage of time, the issues that led the Commission to open this rulemaking in 2000 remain, and Commissioner Brown appreciates the importance of moving forward to examine solutions.

In light of Commissioner Brown's intent to reinvigorate this proceeding, and given that the parties with an interest in this topic may have evolved with

the passage of time, this ruling questions whether the record needs augmentation on new topics or from new carriers.

Parties should respond to this ruling regarding whether the current record of comments from 2000 is a sufficient record for the Commission to use in rendering a decision on this matter, or whether any new issues or potential solutions have emerged since July 2000 that the Commission should consider. Comments shall be strictly limited to five pages. If parties believe that augmentation of the record is necessary, and five pages is insufficient to do so, they should explain in their five page response the specific topics on which the Commission should allow parties to provide further comment and a suggested schedule for doing so.

Accordingly, **IT IS RULED** that:

1. No later than June 29, 2005, parties may comment, in five pages or less, on whether the current record in this rulemaking is sufficient.
2. In addition to the service list of this proceeding, this ruling shall be served on the original mailing list from Rulemaking 05-04-005 to ensure all potential interested carriers are notified.

Dated June 15, 2005, at San Francisco, California.

/s/ DOROTHY J. DUDA

Dorothy J. Duda
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Requesting Comment on Proceeding Status on all parties of record in this proceeding or their attorneys of record and also on R.05-04-005.

Dated June 15, 2005, at San Francisco, California.

/s/ TERESITA C. GALLARDO

Teresita C. Gallardo

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.